

# Notice of Allowability

Application No.

10/759,108

Examiner

Ryan A. Jarrett

Applicant(s)

SCHWARM, ALEXANDER T.

Art Unit

2125

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 09/18/07.
2. ☒ The allowed claim(s) is/are 1-16 and 18-35.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments, see pages 11-13, filed 09/18/07, with respect to the rejection of claims 1-4, 6-13, 16, 19-26, and 28-34 under 35 U.S.C. 103(a) as being unpatentable over Goldman et al. in view of Tan et al. have been fully considered and are persuasive. The rejection of claims 1-4, 6-13, 16, 19-26, and 28-34 under 35 U.S.C. 103(a) as being unpatentable over Goldman et al. in view of Tan et al. has been withdrawn.

Applicant's arguments, see pages 13-15, filed 09/18/07, with respect to the rejection of claims 5, 14, 15, 18, 27, and 35 under 35 U.S.C. 103(a) as being unpatentable over Goldman et al. in view of Tan et al. as applied to claims 1, 13, 16, and 25, and further in view of Daft et al., are considered moot in view of the allowability of the independent parent claims.

***Allowable Subject Matter***

Claims 1-16 and 18-35 are allowed.

The following is an examiner's statement of reasons for allowance:

The application is allowed over the prior art of record in view of the claim amendments filed 09/18/07, and Applicant's corresponding persuasive arguments, see pages 11-13, filed 09/18/07.

In particular, the prior art of record fails to teach or fairly suggest allowing a user to specify that the recipe parameters are not a linear function of time; and time-scaling the collected data from running experiments based on recipe parameters specified as not a linear function of time to make the collected data appear as a linear function in a segment of time, as recited in independent claims 1, 12, 16, and 25, in combination with the remaining features and elements of the claimed invention.

Similarly, the prior art of record fails to teach or fairly suggest, where the recipe parameters are not a linear function of time, time-scaling the collected data to make the collected data appear as a linear function in a segment of time; and creating a model based on the time-scaled collected data and imported data, as recited in independent claim 13, in combination with the remaining features and elements of the claimed invention.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan A. Jarrett whose telephone number is (571) 272-3742. The examiner can normally be reached on 10:00-6:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Picard can be reached on (571) 272-3749. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ryan A. Jarrett  
Primary Examiner  
Art Unit 2125



10/29/07

RYAN A. JARRETT  
PRIMARY EXAMINER